

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Schwartz et al
Title	:	Computer-Based Patient Record Management ...
Application No.	:	10/070,981
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Examiner	:	Dilek B. Cobanoglu
Group Art Unit	:	3626
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REPLY BRIEF

Mail Stop Appeal Brief – Patents
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This Reply Brief was previously filed in response to the first Examiner's Answer mailed on January 16, 2009. The undersigned communicated with the Examiner who suggested that the Applicants refile this brief in response to the second Examiner's Answer mailed on February 17, 2010. Thus, the Reply Brief is being refiled as suggested by the Examiner. Any fees due for this Reply Brief should be withdrawn from the Jones Day Deposit Account No. 501432, reference 214255605002.

I. STATUS OF CLAIMS

Claims 1-21, 23-24, 28-34, 36, 44-45, 49 and 52 are cancelled. Claims 22, 25-27, 35, 37-43, 46-48, 50-51 and 53-54 are pending. The rejections of claims 22, 25, 27 and 35 are hereby appealed. The rejections of claims 26, 37-43, 46-48, 50-51 and 53-54 stand or fall with the rejection of claims 22 and 35, from which these claims depend.

II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Whether claims 22 and 35 are unpatentable under 35 U.S.C. § 103(a) as being obvious over Lavin (U.S. Patent No. 5,772,585) in view of Campbell (U.S. Patent No. 6,047,259) and further in view of Simborg (U.S. Patent No. 5,950,168).

B. Whether claim 25 is unpatentable under 35 U.S.C. § 103(a) as being obvious over Lavin (U.S. Patent No. 5,772,585) in view of Campbell (U.S. Patent No. 6,047,259) and further in view of Simborg (U.S. Patent No. 5,950,168).

C. Whether claim 27 is unpatentable under 35 U.S.C. § 103(a) as being obvious over Lavin (U.S. Patent No. 5,772,585) in view of Campbell (U.S. Patent No. 6,047,259) and further in view of Simborg (U.S. Patent No. 5,950,168).

III. REPLY ARGUMENT

A. The Answer Ignores Key Claim Language that Distinguishes Claims 22 and 35 Over the Combination of Lavin, Campbell and Simborg

There are three reasons why the Examiner's Answer fails to establish that independent claims 22 and 35 are obvious over the cited references. First, the Answer ignores the claim limitation that the processor automatically selects a visit outline *from a plurality of visit outlines* stored in the memory. Second, the Answer ignores the claim limitation that *links* the reason for

visit data entry field with the automatically selects a visit outline function. And third, the Answer ignores the specific language of the “dynamically modifies” function and equates it with an abstract and vaguely-described concept referred to in one of the references as a “knowbot.”

The first 16 pages of the Examiner’s Answer repeats the same analysis set forth in the last office action. This analysis was refuted in the Appeal Brief. The Answer responds to the Appeal Brief arguments beginning at page 17 of the Answer.

Starting at page 17, the Answer sets up the applicants’ first argument as “A. The cited references fail to disclose “automatically selecting a visit outline.” But this is not the argument that applicants raised in the Appeal Brief. A key element of the argument is being ignored by the Examiner. Pages 7-12 of the Appeal Brief establish that the cited references fail to disclose or suggest the claim limitation of “automatically select[ing] a visit outline from *a plurality of visit outlines stored in the memory*.” The Answer completely ignores the key limitation of the claims that *a plurality of visit outlines* must be stored in the memory, and the processor automatically selects one of the stored visit outlines from the plurality of available outlines. This argument has not been refuted by the Answer. In fact, the Examiner’s response to “Argument A” at pages 17-18 does not mention Lavin or Campbell having a plurality of stored visit outlines; because they don’t. This key limitation of the claims is simply ignored by the Answer. Thus, for this reason, the rejection of claims 22 and 35 should be reversed.

Turning to the second reason for patentability, the Answer fails to address the applicants argument that the cited reference do not teach any linkage between the “reason for visit data entry field” and the “automatically selects” function just discussed. This linkage forms a key difference between the claimed invention and the cited references. The claims clearly link these claimed concepts by reciting that “the selection received in the reason for visit data entry field

causes the processor to automatically select a visit outline from a plurality of visit outlines stored in the memory.” Pages 7-12 of the Appeal Brief establish that there is no linkage between a reason for visit data entry field and a plurality of stored visit outlines in the cited references. The Answer does nothing to refute this fact. Indeed, pages 17-21 of the Answer, which is where the Examiner responds to the Appeal Brief arguments, never mentions this important limitation of the claims. Applicants assert that there is no evidence in any of the cited references that teaches a link between a reason for visit data entry field and the automatic selection of a particular visit outline from a plurality of visit outlines stored in memory. The Examiner has simply ignored this key limitation of the claims. Thus, for this additional reason, the rejection of claims 22 and 35 should be reversed.

Turning to the third reason for patentability, the claims recite a specific function for dynamically modifying the presentation of a visit outline by modifying the information set forth in the item column of the visit outline in response to a user making a selection from a pre-defined set of choices presented in the value column of the visit outline. Applicants established that this specific functionality was not present in the cited references at pages 13-17 of the Appeal Brief. In response, the Examiner’s Answer ignores the specific language of the claims, makes no attempt to show exactly how the Simborg reference teaches this claim language, and instead refers to Simborg’s vaguely-described “knowbot.”

In support of this response, the Answer cites to col. 4, lines 54-63 of Simborg. Here, Simborg describes his “knowbot” as a software agent that can be trained to filter large amounts of available data and present only data considered relevant to an individual user. The knowbot determines which data from among the large EMR database of a patent should be displayed and in what format. (Simborg, 4:54-63) Applicants examined this portion of Simborg in the Appeal

Brief (at 16), noting then, as now, that there is nothing here concerning a visit outline being dynamically modifiable in response to a user making a selection from a pre-defined set of choices presented in the value column of the visit outline, as required by claims 22 and 35. This teaching is clearly missing from Simborg. Thus, for this additional reason, the rejection of claims 22 and 35 should be reversed.

B. Lavin's "Treatment Protocol" is Not the Same as the Claimed "Carepath Module" in Claim 25

Regarding dependent claim 25, the Examiner's Answer ignores the fact that the claimed "carepath module" suggests a particular medical treatment "*in response to the data input to the first, second and third data entry screens.*" This is what differentiates the carepath module from the treatment protocol of Lavin, which as previously noted appears to be a simple lookup table that is manually selected by the medical service provider, and which is not responsive to the data input to the system in first, second and third data entry screens, as required by claim 25. Further distinguishing the claimed "carepath module" from Lavin's treatment protocol is the fact that the claims require it to be "*linked to the selected visit outline.*" There is no evidence that Lavin's treatment protocol has any linkage to a visit outline. These differences between claim 25 and the Lavin reference are not discussed or refuted in the Answer. Instead, the Answer simply ignores the claim language that requires linkage to a visit outline and that requires that the medical treatment be responsive to the data input to the first, second and third data entry screens. Thus, for this reason, the rejection of claim 25 should be reversed.

C. Lavin Does Not Disclose a Genogram as Required By Claim 27

In the response set forth at pages 20-21 of the Examiner's Answer, there is no mention of a genogram. Claim 27 requires that the system "graphically maintains the patient's family medical history *in a genogram.*" A genogram, as noted previously in the Appeal Brief at page

20, is a graphic representation of a family tree that displays detailed data on the relationships among individuals in the family tree. There is no evidence that Lavin teaches a genogram, and the Answer has not even maintained that it does. Instead, the Answer continues to rely upon Lavin's family history screen (Figure 10), which shows a simple table of relations and diseases (item 120), not a genogram. Thus, the rejection should be reversed.

Therefore, for all the reasons set forth herein, applicants respectfully request that the Board reverse the rejections of claims 22, 25, 27 and 35.

Respectfully submitted,

A handwritten signature in cursive script that reads "David Cochran". The signature is written in dark ink and is positioned above the printed name and address.

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